IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE ACTING CHIEF JUSTICE MR.K.S.RADHAKRISHNAN

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

Crl.Rev.Pet.No. 1001 of 1998()

CRA.114/1996 of ADDITIONAL SESSIONS COURT, THALASSERY
CC.724/1994 of JUDL.MAGISTRATE OF FIRST CLASS COURT, KUTHUPARAMBA

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REVN. PETITIONER/APPELLANT/ACCUSED:

K.K.SUDHEESH, S/O.KUNHIKORAN,
TODDY TAPPER, CHERUVANCHERRY AMSOM AND
DESOM, P.O. CHERUVANCHERRY,
VIA.CHITTARIPARAMBU, TELLICHERRY.

BY ADV. SRI.T.P.PANKAJAKSHAN

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR MR.SHYSON P.MANGUZHA

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 31/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.S.RADHAKRISHNAN, Ag.C.J.

Crl.R.P.No.1001 of 1998

Dated, this the 31st day of January, 2007

ORDER

This revision arises out of the judgment in Crl.A.No.114 of 1996 of the Additional Sessions Court, Thalassery which was filed against the judgment in C.C.No.724 of 1994 on the file of the Judicial First Class Magistrate Court, Kuthuparamba. The petitioner/accused was charge sheeted by the trial court for offence under Section 324 of the Indian Penal Code and convicted and sentenced to undergo rigorous imprisonment for six months. He was further sentenced to pay Rs.5000/- as compensation to P.W.1 as provided under Section 357(3) of the Code of Criminal Procedure. In case, the compensation was not paid the accused was ordered to undergo rigorous imprisonment for a further period of six months. Aggrieved by the said order, the accused filed appeal. The learned Additional Sessions Judge confirmed the conviction and sentence of rigorous imprisonment for six months awarded by the trial court, but the compensation to be paid was reduced to Rs.3000/- and in default of payment of

compensation to undergo imprisonment for three months. Aggrieved by the same this revision has been preferred.

2. The revision petitioner submitted that the trial court as well as the appellate court have not properly appreciated the evidence in the right perspective, especially the evidence of P.Ws.2 and 3 and Ext.P2. It was also submitted that there was error in discarding the evidence of D.W.1. It was further submitted that this revisional court should interfere with the findings recorded by the courts below.

3. On appreciation of the evidence in the case and also the reasoning recorded by the trial court as well as the appellate court I find no error or illegality in the finding rendered to be interfered by me in this revision. The story of scuffle between P.W.1 and the accused was proved by clear evidence. It is the specific case of the defacto complainant that the accused came to the shop, demanded money and on his refusal he hit P.W.1 with a glass on the right side of his face thereby causing injuries. The oral evidence tendered by the prosecution witnesses corroborates with each other and the evidence is in strict conformity with the recitals in Exts.P1 and P2 and there was

absolutely no reason to accept the defence plea that there was a scuffle between the accused and P.W.1 and in that attempt P.W.1 sustained injuries. In the circumstances, in my view, the trial court and the appellate court rightly recorded the conviction and sentence against the petitioner. However, taking into account the entire circumstances of the case I modify the sentence to that of rigorous imprisonment for three months instead of six months awarded by the courts below. The compensation of Rs.5000/- awarded by the trial court to be given to the injured is however restored. Payment of compensation of Rs.5000/- (Rs.Five thousand) shall be made within a period of three months from today. If the compensation is realised the same should be given to the injured P.W.1. In case the said amount is not paid within the time, the petitioner will have to undergo simple imprisonment for another one month instead of the three months awarded by the lower appellate court.

Revision petition is disposed of accordingly.

K.S.RADHAKRISHNAN,
Ag. Chief Justice.

vns